

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL EASON,
Plaintiff,

v.

JOSEPH LEHMAN,
Defendant.

Case No. C04-5845FDB

ORDER

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court are plaintiff's motions for appointment of counsel and to extend the discovery cut off date. (Dkt. # 17 and 18) Defendant has responded indicating he opposes the motion for appointment of counsel and does not oppose a short continuance of the discovery cut off date. (Dkt. # 19).

Plaintiff indicates he used a form complaint and has no knowledge of the law. (Dkt. # 17). He alleges there is no law library available to him but defendant contests that allegation and indicates plaintiff has extensive legal materials and supplies available to him. (Dkt. # 19). Finally, plaintiff indicates he did not conduct discovery because he did not know how. He asks for an extension of the discovery cut off date. A scheduling order was entered in this case in August of 2005 which

1 gave plaintiff five months to conduct discovery. (Dkt. # 16). Between the entry of that order and
2 the two motions now before the court there was no activity filed in this case.

3 Plaintiff's motion for appointment of counsel is **DENIED**. As noted by defendant plaintiff
4 does not meet the requirements for appointment of counsel. Those requirements are an evaluation of
5 both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro*
6 *se* in light of the complexity of the legal issues involved. Wilborn v. Escalderon, 789 F.2d 1328,
7 1331 (9th Cir. 1986).

8 The motion for an extension of time is also **DENIED**. This action was filed in December of
9 2004. (Dkt. # 1). Plaintiff has had over one year to conduct discovery and was given five months
10 notice of the cut off date. His failure to conduct discovery in a timely manner is not excused by his
11 *pro se* status.

12 The clerk is directed to send a copy of this order to plaintiff and counsel for defendant and to
13 remove Docket entries 17 and 18 from the court's calendar.

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15 DATED this 30th day of January, 2006.

16 /s/ J. Kelley Arnold
17 J. Kelley Arnold
18 United States Magistrate Judge
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